



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,605	08/20/2003	Edward Williams	GOEA 02316 C1US	5988
32233	7590	06/02/2004	EXAMINER	
STORM & HEMINGWAY, L.L.P. 8117 PRESTON RD. STE. 460 DALLAS, TX 75225			EDGAR, RICHARD A	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/644,605	WILLIAMS, EDWARD
Examiner	Art Unit	
Richard Edgar	3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 August 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/17/2003</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: in Figure 1, there is no "system 1" (see page 5, lines 3-5). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because in Figures 3 and 4, the tiles (104,104') are depicted as a unitary "L"-shaped member, however, it seems from the specification that the tiles are two separate pieces. A solid line should be drawn showing the distinction of two adjoining tiles. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to because in Figure 5, the tiles (104') with a first face adjacent to the plate should be labeled as 104. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

On page 1, line 1, "ASSMEBLY" should be --ASSEMBLY--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4,671,740 issued to Ormiston et al.

Ormiston et al. teach a rotating fan made of a first material 22 having a hub through which a gas containing solid particles is drawn, the gas and solid particles being projected out the circumference of the fan along channels formed by fan blades 10, the channels being lined with a labyrinth seal comprised of plates 20 of a second material harder than the first material 22.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 1,985,705 (Whiton hereinafter) in view of United States Patent No. 4,671,740 (Ormiston et al.).

Whiton discloses a fan impeller made of a first material having a hub through which a gas containing solid particles is drawn, the gas and solid particles being projected out of the circumference of the fan along channels formed by fan blades, the channels being lined with an erosion liner which has a section adjacent a channel joint adapted to reduce the erosion effects of the gas and solid particles during impeller rotation.

Whiton does not expressly teach the erosion liner being plates of a material harder than the impeller material, nor the channel joint having an additional layer of plates.

Ormiston et al. disclose a fan impeller comprising tiles arranged on the fan and inner casing. The tiles have an abrasion resistance higher than the base material and serve to reduce erosion effects from the gas and solid particles being acted on by the impeller apparatus.

Since the Whiton patent teaches an erosion liner and Ormiston et al. show that an erosion liner should comprise a plurality of tiles of a harder material arranged on the fan base material, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the erosion liner of Whiton based on the tile teaching of Ormiston et al. so that the erosion liner is comprised of a plurality of tiles made from a material harder than the base material for the purpose of reducing erosion experienced on the fan blades.

Applicant's limitation in claim 2 which requires "an additional layer of tiles securely attached along at least one joint of the channel", is deemed by the examiner to

be a mere duplication of a part. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). MPEP § 2144.04. Since adding a second layer of tiles along the channel joint is merely a duplication or a redundant step, for the purpose of increasing the erosion resistance, which is a readily expected result, patentable significance cannot be afforded to said limitation.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21, respectively of prior U.S. Patent No. 6,648,601. This is a double patenting rejection.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Edgar whose telephone number is (703) 305-0050. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (703) 308-1044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Edgar
Examiner
Art Unit 3745

RE



EDWARD K. LOOK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

5/28/04